

all over the Nation whose sole function is to get the sickest among us to the emergency room quickly, efficiently and safely so emergency physicians can tend to our condition.

Contrary to what most people think, EMS personnel do not make diagnoses. They do not make decisions about whether a patient should or should not be transported to an emergency room based on their medical condition. Ambulance personnel respond to calls initiated in any number of ways, arrive at the location, assess the patient's condition, stabilize them and ready them for transportation to a facility with the personnel trained to make a diagnosis.

The reason I wanted to bring this to everyone's attention is because I believe many of us have not taken the time to fully understand the function ambulance services performs in the health care delivery system. We cannot afford to continue ignoring the important role EMS plays in health care.

For the past 3 years, I have introduced legislation which would address some of the problems ambulance services faces every day. My most recent iteration is S. 911, the Emergency Medical Services Efficiency Act. I invite any and all of my colleagues to join me as a cosponsor of this important legislation. I am hopeful we can include several of its provisions in the Patients' Bill of Rights legislation before us today.

For every 1 percent increase in premiums, there are an additional two to four thousand uninsured in Minnesota. Whether it's a family of four in Ada, Minnesota or a single mother of two in Zumbrota, I don't want to be responsible for any Minnesotan losing their health insurance coverage. I believe if I were to vote for the Kennedy-Daschle bill, I would be doing just that—ensuring that 36,000 Minnesotans will be forced to drop their coverage because they can no longer afford it.

That is something I, along with 97 of my colleagues in the Senate, voted not to do in a sense-of-the-Senate resolution last year. I urge my colleagues to honor the promise they made in that vote and defeat the government-centered, one-size-fits-all vision of health care illustrated by the Kennedy-Daschle Patients' Bill of Rights. Patients will get a bill all right—one taken out of their paychecks every month.

I urge my colleagues to say yes to creating choices, yes to protecting consumers who aren't currently protected, yes to being mindful of costs, and yes to increasing the number of insured—they can do all that with one vote for the Patients' Bill of Rights Plus.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized to speak for up to 5 minutes.

Mr. REED. Thank you, Mr. President.

PATIENTS' BILL OF RIGHTS

Mr. REED. Mr. President, I will discuss several issues that are central to the debate we are having on managed care in the Patients' Bill of Rights.

First, I was very disappointed that the Senate rejected Senator KENNEDY's amendment which would have extended the protections of the Patients' Bill of Rights to all privately insured Americans. Those in favor of much more limited coverage, very much restricted coverage, argue that the cost in the Democratic alternative would cause many Americans to lose their health insurance through increased premiums. They argue, as we have heard time and time again, that premiums would rise and that employers would drop coverage.

When you actually talk to many employers, particularly those in small businesses who are represented by the American Small Business Alliance, for example, they tell quite a different story. They talk about a situation in which they have already seen premiums rise, but they get very little for what they pay for.

For example, Mr. Brian McCarthy, President of McCarthy Flowers and Cabs, from Scranton, PA, had this to say. His words:

Workers who spend time out sick or are consumed in battles with their health plan wreak havoc on the bottom line. That lost productivity costs my business a lot more than the modest premium increases that may result from this legislation.

He went on to add:

The Patients' Bill of Rights is about giving people the care they need and deserve, and it clearly gives small businesses a better deal for their health care dollar.

That is not the voice of a Senator, but of a small businessperson who has seen the effects of managed care on his own bottom line.

Another small business owner, Mr. Tom Reed, who owns Lake Motors in Eagle Lake, TX, said:

My premiums go up now and I get nothing, or sometimes even less coverage. The Patients' Bill of Rights at least will give me something tangible, bringing me better value for the health care money I spend.

Those are the words of businesspeople who are struggling with the issues. They are in favor of this legislation because they want to get what they have been paying a lot for, and that is quality health care. They will only get that with the Democratic Patients' Bill of Rights.

There have been studies that have supported these anecdotal comments. The Kaiser-Harvard Program on Health Policy surveyed small business executives from the small business sector, and they found that 88 percent support independent appeals such as those that are in the Democratic alternative; 75 percent support the right to see a specialist without prior approval; 61 percent favor giving people the right to sue their health plan; and fewer than 1 percent suggested that they might drop coverage if rates increased.

These are small business executives. This is compelling and persuasive evidence that, in order to be responsive to the needs of small businesses throughout the country, it is imperative that we pass the Democratic alternative.

There is another aspect of this legislation which deserves discussion, and that is the fact that health care plans, HMOs, are immune from liability because of what is apparently a loophole in the ERISA law.

A physician can be sued for malpractice, a physician can be sued for making misjudgments, but an insurance company, often working through nonphysicians, administrators, and reviewers, are immune from such suits.

This aspect of accountability is critical to making sure that we have rights that are enforceable and that actually produce tangible results throughout the country.

In another survey, the Kaiser Family Foundation found that 73 percent of those surveyed believe that patients should be able to hold their managed care plans accountable through the courts.

This is not to suggest that anyone is encouraging a mass exodus to the courthouse. In fact, there is quite a bit of experience that suggests this probably will not happen.

In Texas, in May of 1997, bipartisan legislation was passed making it the first State where managed care organizations can be sued for medical malpractice. Like the Democratic plan, the Texas liability law is closely tied to tough, independent external review processes. In fact, you cannot take advantage of the right to sue until you have been through this independent review process.

Despite all the warnings about a flurry of lawsuits—the same thing we are hearing today—this has not been the experience in Texas. Neither has the State experienced increased premiums. What has happened is that both sides now are claiming success. HMOs are saying: Look, this is working. And consumers are saying: This is helping us out. In fact, according to Texas State Senator David Sibley—

The PRESIDING OFFICER. The time has expired.

Mr. REED. I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. I thank the Chair.

According to one of the sponsors, Texas State Senator David Sibley, who is Republican, in his words, stated:

[T]he Texas experience has been very positive. . . . Both sides are claiming victory: the HMOs are saying "see how well it works; people aren't filing many reviews." The consumer groups are saying that HMOs are being more responsive and are looking more carefully at the needs of patients before they deny claims.

Mr. REID. Will the Senator yield?

Mr. REED. Yes.

Mr. REID. Is the Senator aware that George W. Bush, Governor of the State

of Texas, vetoed the initial HMO bill in the State of Texas?

Mr. REED. I was not aware of that. But I think experience is showing that it would have been an error because the law is working very well. We have a rare historic opportunity to do something to help the American people. It has been done already by the great State of Texas in many respects, but we can do much more, and we shall do much better. I would like to see the same type of protections that are available to the good people of Texas afforded to everyone in this great country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin, Mr. FEINGOLD, is recognized to speak up to 10 minutes.

THE IMPORTANCE OF PATIENT PROTECTIONS

Mr. FEINGOLD. Mr. President, I rise today to speak about the importance of passing a meaningful Patients' Bill of Rights package that will ensure that managed care companies cannot put their cost-control measures ahead of the well-being of their patients. This legislation is absolutely vital to protecting the quality of health care for all Americans.

Many of my colleagues have spoken on various aspects of this issue over the past few weeks. But I would like to bring my colleagues' statements "home" by speaking a bit about what we mean when we talk about "Protecting Patients' Rights." We are talking about the grim reality that the American health care system is no longer controlled by those who best understand how to treat patients—our physicians.

Instead, managed care companies, primarily HMOs but also other health insurance providers, have become so involved in the business of health care that they control nearly every aspect of health care including where the health care is provided, and by whom. Of greatest concerns to me the most is that these managed care organizations can decide whether that health care can be provided at all—they make the key medical decisions. In other words, regardless of whether that care is determined to be medically necessary by the physician who is treating you, managed care administrators can override your doctor's medical decisions and refuse to cover the care that you need.

How does this happen? Well, managed care companies control costs by limiting supply—screening which health care providers its enrollees are permitted to see, requiring patients to go through insurance company gatekeepers prior to seeing a specialist, tracking physician practice patterns to ensure that doctors are complying with HMOs' cost-control efforts. Some HMOs go so far as to impose a gag-rule on doctors, prohibiting physicians in

their system from discussing treatment options that the HMO administrators deem too expensive.

Managed care companies control how—or even whether—we receive health care. Their control over what goes on in the examination room can be matched only by their significant political clout in Washington, which they've gained in part through generous political donations. Mr. President, during earlier remarks I gave on the Patients' Bill of Rights, I talked about the power special interests wield in the health care debate, but I want to remind my colleagues and the public of those remarks, because I think it's vital that we keep the power of these wealthy interests in mind throughout this discussion.

During the last election cycle, managed care companies and their affiliated groups spent more than \$3.4 million on soft money contributions, PAC, and individual contributions—roughly double what they spent during the last mid-term elections.

Managed care giant United HealthCare Corporation gave \$305,000 in soft money to the parties, and \$65,500 in PAC money to candidates;

Blue Cross/Blue Shield's national association gave more than \$200,000 in soft money and nearly \$350,000 in PAC money;

And the managed care industry's chief lobby, the American Association of Health Plans, has given nearly \$60,000 in soft money in the last two years.

Mr. President, these numbers are just the tip of the iceberg, but I mention them today to present a clearer picture of the power the managed care industry wields in Washington as we debate managed care reform. As we talk here on the floor about why Americans have such an important stake in this body passing the Patients' Bill of Rights, we should also be aware of what a huge stake the industry has in stopping this legislation, and how they have used the campaign finance system to protect their interests.

Regardless of how you feel about any particular Patients' Bill of Rights proposal, I think any reasonable person would agree that an arrangement where someone has financial incentives to deny health care to my family and me—that the very existence of such incentives has to raise flags. As a parent, and as a consumer, I want to be sure that managed care cost-control systems don't compromise the quality of health care for my family and me.

So I want to make it clear that the central goal of protecting patients' rights is to ensure that medical necessity is what drives our health care. That's what we're talking about. We need to be sure that the people making health care decisions are licensed health care professionals, not administrative personnel whose primary mission is to protect their bottom line. I do not think that is an outrageous, pie-in-the-sky goal. I think it's a common

sense expectation when I buy health insurance for my family, and I don't think any of my colleagues would demand any less from their own health insurance.

During the year or so since Senators DASCHLE and KENNEDY first introduced the Patients' Bill of Rights, I have had the opportunity to visit every county in my state to speak with my constituents and to find out what issues they care about. I can tell you that health care—the quality of health care, the availability of health care—is consistently one of the top issues that my constituents raise with me. In general, the quality of health care in Wisconsin is quite good. Wisconsin was one of the first states to regulate HMOs as insurance providers, and the state has developed a set of basic, common sense patient protections—many of which are included in S. 6, the Democratic Patients' Bill of Rights.

Mr. President, I would like to share a story that was told to me by a pediatrician who practices in Madison, Wisconsin. This pediatrician told me about a newborn infant she saw who looked fine upon first examination, but on the second day, the pediatrician detected a heart murmur. Knowing that this newborn urgently needed to see a specialist, the pediatrician immediately called for a referral to a pediatric cardiologist, which in this particular HMO requires first going through an adult cardiologist for the referral to a pediatric specialist. By sheer luck, a pediatric cardiologist happened to be in the hospital on a separate matter and was able to examine the baby.

The pediatric cardiologist ordered an echocardiogram and diagnosed coarctation, a tightening or narrowing of the aorta that is specific to newborns. That pediatric cardiologist happened to be in the right place at the right time—but under usual circumstances, time would have been lost while a referral was sought from an adult cardiologist. As a result, that baby immediately began receiving medication—prostaglandin—intravenously until she could be transported to Children's Hospital in Milwaukee to receive emergency heart surgery. The baby survived and is doing well.

When I heard this story, apart from relief that the baby survived, my first question was, "What would have happened if you and the baby's parents had to go through the normal processes of the HMO's rules?" The pediatrician told me that that process, even if expedited, would have taken at least 24 hours, which didn't sound very long until the pediatrician informed me that the untreated coarctation would have resulted in the baby's death within a few hours.

I am greatly relieved and happy that this particular baby was cared for and survived. But what I find frightening, though, is that this baby survived almost as a fluke, in spite of the system. The Patients' Bill of Rights includes a guarantee of access to pediatric specialists. Fortunately for the family of